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11-01-01

Practitioner's Docket No. 16790-6411

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent application

of \_\_\_\_\_  
Inventor(s)

for \_\_\_\_\_  
Title of invention

**OR**

**RECEIVED**

AUG 28 2001

In re application of: Gourley

Technology Center 2100

Application No.: 09 / 710,227

Group Art Unit: 2161

Filed: November 10, 2000

Examiner: unknown

For: METHOD AND APPARATUS FOR PROCESSING PHARMACEUTICAL ORDERS TO  
DETERMINE WHETHER A BUYER OF PHARMACEUTICALS QUALIFIES FOR AN  
Assistant Commissioner for Patents "OWN USE" DISCOUNT  
Washington, D.C. 20231

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
WITHIN THREE MONTHS OF FILING OR  
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

**NOTE:** "An information disclosure statement shall be considered by the Office if filed by the applicant: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in § 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. § 1.97(b).

**CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

**FACSIMILE**

☒ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

☐ transmitted by facsimile to the Patent and Trademark Office.

Date: 8/21/01

Signature

R. Haferkamp

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [6-3]—page 1 of 2)



NOTE: The "filing date of a national application" under 37 C.F.R. § 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 C.F.R. § 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 C.F.R. § 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. § 1.97(b)(2).

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### IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

NOTE: "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).


NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 C.F.R. 1.142) or just a requirement for additional fees to have a claim considered (37 C.F.R. 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).

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(type or print name of practitioner)

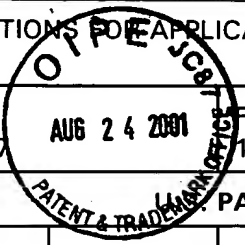
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(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office  
Action [6-3]—page 2 of 2)

LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT				ATTORNEY'S DOCKET NO.: 16790-6411 <b>RECEIVED</b>			
Applicant: Gourley		Serial No.: 09/710,227		Filing Date: 11/10/2000		Group Art Unit: 2161	
				Technology Center 2100			
<b>PATENT DOCUMENTS</b>							
Examiner Initial		Document Number:	Date:	Name:	Class:	Sub-Class:	Filing Date:
	AA						
<b>FOREIGN PATENT DOCUMENTS</b>							
		Document Number:	Date:	Country:	Class:	Sub-Class:	Translation:
	AB						
<b>OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, etc.)</b>							
	AC	Letter dated July 6, 2000 from Health Resources USA, LLC to Drug Enforcement Program, four pages					
	AD	Letter dated July 7, 2000 from Drug Enforcement Program to Health Resources USA, LLC, one page					
	AE	Letter dated July 13, 2000 from Health Resources USA, LLC to Drug Enforcement Administration, one page					
	AF	"Focus On Sales And Marketing", E-commerce Pharmaceuticals, downloaded from <a href="http://www.streamingmedia.net/ecpharma/briefing041400.html">http://www.streamingmedia.net/ecpharma/briefing041400.html</a> on 9/29/00, pages 1-4					
	AG	<u>GTE Products Corporation v. Broadway Electrical Supply Co., Inc.</u> , 676 N.E.2d 1151, 42 Mass. App. Ct. 293 (1997)					
	AH	<u>U.S. v. Ferro</u> , No. 00-2467 (8th Cir. 2001), pages 1-6					
	AI	"Welcome to the ComputerTalk Web Site . . . A Great Place to Shop for Healthcare Computer Systems and Software", downloaded from <a href="http://www.computertalk.com/FromMainFrame/home.html">http://www.computertalk.com/FromMainFrame/home.html</a> on 10/31/2000, pages 1-2					
	AJ	<u>Abbott Laboratories v. Portland Retail Druggists Association, Inc.</u> , 425 US 1, 47 L.Ed.2d 537, 96 S.Ct. 1305 (1976)					
	AK	<u>In re Brand Name Prescription Drugs Antitrust Litigation</u> , 123 F.3d 599 (7th Cir. 1997)					
	AL	<u>In re Brand Name Prescription Drugs Antitrust Litigation</u> , 186 F.3d 781 (7th Cir. 1999)					
	AM	Health Resources USA, L.L.C. pamphlet, one page, uncirculated					
	AN	"A Listing of Vendors and Suppliers of Computer Systems and Related Services for Retail Pharmacies", downloaded from <a href="http://www.computertalk.com/VendorLists_HTML/retl_all.shtml">http://www.computertalk.com/VendorLists_HTML/retl_all.shtml</a> on 10/31/2000, 19 pages					
EXAMINER:				DATE CONSIDERED:			
<p>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of the form with next communication to applicant.</p>							